IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. CIVIL WRIT PETITION NO.5952/07
Statyendra Nath Bhardwaj Vs. Smt. Devki Devi Gupta & Ors.

Date of order : 11/12/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Satish Pachori for the petitioner.

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This writ petition has been filed against the order dated 22.5.07 whereby the learned Appellate Rent Tribunal has while entertaining the appeal of the petitioner-tenant against the eviction order passed by the Rent Tribunal dated 15.11.2006 has directed him to pay a sum of Rs.3,400/- as *mesne* profit from 1st May, 2007 on month to month basis and also deposit any decreetal amount that may be due and has stated in execution of the eviction order subject to his complying with the aforesaid conditions. The learned appellate court has further

directed that out of the aforesaid amount of Rs.3400/- per month, the amount of Rs.1,700/- per month shall never been withdrawn by the respondent-landlord who shall file an undertaking before the appellate court. It was directed that the remaining amount shall be adjusted subject to final judgment that may be passed in appeal.

Learned counsel for the petitioner in assailing the aforesaid order has argued that the appellate court could not put such an unreasonable condition inasmuch as the amount of rent initially fixed in July 2, 1996 was only Rs.1,000/- per month and the Tribunal has revised the same by calculating it at the rate of 7.5% as per the provisions of Section 6 of the Rent Control Act, 2001 whereas the aforesaid rate has been reduced to 5% by Rajasthan Rent Control (Second Amend)

Act, 2005. The learned counsel also assailed the judgment of the Rent Tribunal dated 15.11.2006 on merits.

Having heard the learned counsel for the petitioner, I do not deem it appropriate to entertain the challenge to the judgment dated 15.11.2006 passed by the Rent Tribunal, Kota lis judis by either of the parties in the appeal which is pending before the Appellate Rent Tribunal. In so far as the challenge to the condition imposed by the Appellate Rent Tribunal is concerned, I find the aforesaid condition to be just and reasonable. The petitioner-tenant suffer a decree of eviction and the appellate court has while passing the interim order has every right to put the tenant to just and appropriate conditions. Reasonableness of the order passed by the Appellate Rent Tribunal is further

evident from the fact that it has while fixing the mesne profit as Rs.3,400/- per month directed that only 50% of that amount shall be disbursed to the respondent-landlord upon his furnishing the undertaking not to withdraw the remaining 50% which shall be liable to be adjusted as per the final judgment passed by it.

I therefore do not find any reason to interfere with the order passed by the Appellate Rent Tribunal.

The writ petition is therefore dismissed summarily.

(MOHAMMAD RAFIQ), J.

RS/